



UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

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In re application of
John Wnek et al
Serial No. 09/871,324
Filed: May 31, 2001
For: SPLICE WELDER:

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: DECISION ON
: PETITION
:

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT - OFFICE ACTION NOT RECEIVED, filed December 01, 2003. The petition requests that the abandonment, as set forth in the Notice of Abandonment of November 04, 2003, for failure to timely file a proper response to the Office letter dated April 18, 2003 be withdrawn. The petitioner asserts that the Office letter of April 18, 2003 was not received by applicants.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(II).

The evidence presented is sufficient to establish that the Office letter of April 18, 2003 was not received by the petitioner. The evidence provided includes a statement by the petitioner that the Office letter of April 18, 2003 was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office letter of April 18, 2003 was not received. Also provided are: 1) copies of the Attorney Patent Docket for the due date of July 18, 2003, where the action due of 09/871,324 for the Office letter of April 18, 2003 would have been posted had it been timely received ; 2) a copy of the statement under 37 C.F.R.3.73(b) and Power of Attorney changing the correspondence address to Harness, Dickey & Pierce, P.L.C., which was filed with the USPTO on January 13, 2003 and 3) a copy of the returned stamped postcard dated January 21,



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2003. A review of the instant application file indicates that the applicants filed a Statement Under 37 CFR 3.73(b) and Power Of Attorney on January 21, 2003 (Paper No. 11) to request a change of the correspondence address, and the USPTO records have not been updated to include the current address of the attorney.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the above noted Office letter to the correspondence address and restarting of the statutory period of response from the remail date thereof.

The instant petition was accompanied by \$130.00 as a petition fee. However, a petition of this type does not require a \$130.00 petition fee. Therefore, a refund of the \$130.00 may be obtained by directing a copy of this decision along with a written request for such a refund to the Office of Finance.

The Petition is **GRANTED**.

A handwritten signature in cursive script, appearing to read "JStone", is positioned above the printed name of the Director.

Jacqueline Stone, Director
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